

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOHN SAYYAH, et al.,

Plaintiffs,

v.

WAYNOKA PROPERTY OWNERS
ASSOCIATION, INC., et al.,

Defendants.

Case No. 1:01cv459

Judge Watson

DEFENDANTS' JOINT MOTION
TO STAY DISCOVERY

Now come Defendants, by and through counsel, and hereby respectfully request that this Court stay all discovery in this matter, pending this Court's ruling on Magistrate Black's Report and Recommendation to dismiss this action. The reasons in support of said motion are more particularly set forth in the accompanying Memorandum.

Respectfully submitted,

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MEMORANDUM

I. PROCEDURAL HISTORY:

Plaintiffs instituted the within matter by filing a Civil RICO Complaint on July 11, 2001. (Doc. No. 1). An Amended Complaint was filed on November 1, 2001, and Plaintiffs were granted leave to file a Second Amended Complaint on September 19, 2002. (Doc. Nos. 4, 74). Plaintiffs' Second Amended Complaint was met by Defendants Fender, Bridges and Gorby's Motion to Dismiss (Doc. No. 80); Defendant Freeman's Motion for Summary Judgment (Doc. 86); and the remaining Defendants' Motion for Judgment on the Pleadings (Doc. No. 99).

On July 26, 2004, Magistrate Judge Black issued a Calendar Order setting the discovery deadline for May 3, 2005. (Doc. No. 137). Magistrate Judge Black subsequently issued a Report and Recommendation that: (1) Defendants Fender, Bridges and Gorby's Motion to Dismiss be granted; (2) Defendant Freeman's Motion for Summary Judgment be granted; (3) Defendants' Motion for Judgment on the Pleadings be granted in part and denied in part; (4) Plaintiffs' claims arising under State law be dismissed without prejudice; (5) remaining motions be dismissed as moot; and (6) this case be closed. (Doc. No. 153).

II. DEFENDANTS RESPECTFULLY REQUEST A STAY OF DISCOVERY UNTIL A RULING ON MAGISTRATE BLACK'S REPORT AND RECOMMENDATION IS MADE.

There are 44 parties and at least seven attorneys currently involved in this action. Accordingly, it is presumed by these Defendants that the discovery process will be quite costly and time consuming for all parties. In fact, Plaintiffs have indicated that they intend to take the deposition of between 20 and 30 non-party witnesses. (Doc. No. 136, Section 6 Recommended Discovery Plan).

Magistrate Judge Black recommended that this matter be dismissed and that Report and Recommendation is currently pending before this Court. Due to the obvious cost and time involved in conducting such a potentially massive discovery plan, and the fact that said discovery would be unnecessary and wasteful should this Court accept Magistrate Judge Black's Report and Recommendation, these Defendants respectfully request that all discovery be stayed in this matter pending this Court's decision on said Report and Recommendation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by ordinary U.S. mail on John

Sayyah and Brenda Frank on February __, 2005.

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